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SUBJECT: MGLE01: IFES DELEGATION ON LEBANON'S ELECTORAL LAW

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Classified By: Ambassador Jeffrey D. Feltman for reason 1.4 (d)

SUMMARY

¶1. (C) A team of IFES experts visiting Beirut told us that the national commission charged with reforming the electoral law appears to have come up with a progressive, reform-oriented draft. They said that the recent impasse over districting should not distract Lebanese from the fact that "80 percent of the law is very good." They worried, however, that technical shortcomings in key areas, including the framework of a proportional representation system and an independent electoral commission, might wind up defeating the purpose of electoral reform. Still, with committed technical support from the international community and Lebanese NGOs, it would be possible to rectify many of the initial draft's apparent weaknesses. This cable reviews some of IFES's concerns about the draft law's potential technical problems. IFES will release a full report on their visit to Beirut in the coming week. End summary.

DRAFT LAW: "80 PERCENT" IS "VERY GOOD"

¶2. (C) On March 18, emboffs called on a visiting team of IFES electoral experts at IFES's new office in Beirut. Present were Peter Erben, IFES's deputy director for post-conflict electoral programs; Jared Blanc, IFES country director for the West Bank and Gaza; IFES consultant Ben Goldsmith; Beirut chief of party Hermann Thiel; and Beirut-based media and election specialist Monique de Groot. Erben led an IFES team to Beirut to discuss Lebanon's draft electoral law with commission members, GOL officials, and Lebanon's NGO community.

¶3. (C) Overall, IFES reported that the draft law was a good start. Although they had not seen any working drafts of the electoral law, they felt they had a fairly detailed understanding of the law's major provisions from their meetings with commission members and other NGO technical advisors. The recent, politically-charged impasse over districting -- which saw two commission members resign -- did not detract from the fact that "80 percent of the law is very good," Erben said. Nothing in it was fundamentally wrong.

WORKING PAST "ARROGANCE" AND AROUND THE "VACUUM"

¶4. (C) Seeing Lebanon at "pivotal point" for changing its current "weak" electoral system, the IFES experts expressed concern that the draft law's provisions in several important areas had technical shortcomings. These shortcomings could undermine the drafters' original intent, they said. The shortcomings stemmed from the fact that the national electoral reform commission is composed almost entirely of lawyers without any experience in electoral systems, and because the UN had limited the commission's access to technical assistance and research during the drafting process.

¶5. (C) The IFES experts expressed particular concern about the commission's guidelines for setting up a proportional electoral system (described in further detail below). These would, perversely enough, retain the major shortcomings of the current majoritarian system. That is, they would limit access to independent political movements and lock in the dominance of Lebanon's reigning sectarian bosses (Hizballah, Aoun, Jumblatt, Hariri, etc.)

¶6. (C) Blanc said that one problem he and his colleagues encountered in nearly all of their discussions was "the arrogance that develops when people work on something in isolation over a long period of time without considering any of the practical implications." He cited the impasse over districting as a case in point. He said the Lebanese have been looking at their electoral system for a while, but various sectarian groups have been doing it in isolation from one another, and none of them have consulted outside experts. "So they think they know everything, but they've actually included some very dangerous provisions," said Blanc.

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UN COMES IN FOR CRITICISM

¶7. (C) The IFES experts also had some criticism for the UN. They complained that a needlessly "stubborn" UNDP, as the umbrella authority for the technical secretariat charged with providing expert and research assistance to the national commission on electoral reform, had kept Lebanese and international election experts from contacting commission members, while providing minimal assistance themselves. Rather than staking out the area of technical assistance to the commission as UN turf and then providing that technical assistance, "they established a vacuum and then defended it," said Blanc. As a result, commission members did not have access to what they needed when drafting some of the electoral law's more difficult provisions.

¶8. (C) The next several paragraphs detail IFES's concerns on what appear to them to be the draft law's main technical shortcomings in its plans for a proportional representation system, an independent electoral commission, voter registration, dispute resolution, and a women's quota.

PROPORTIONALITY AND THRESHOLDS

¶9. (C) New districting plans under a proportional representational system were the source of a fallout among commission members and the resignation of the commission's two Maronite members, Ziad Baroud and Michel Tabet. Blanc said that there were two likely motivating factors for widespread Christian, particularly Maronite, unhappiness with the districting proposals. First, there was a lack of understanding of proportional representation itself. Even more importantly, it was not well understood how a proportional electoral system would change the behavior, organization, and outlook of Lebanon's voters and the

politicians.

¶10. (C) The second factor, according to Blanc, was an even more important cause of Christian rejectionism, and more serious. He said that Christians are interested in the symbolism of maximized Christian districts, regardless of technical considerations. Christians seem to want to draw as many Christian-majority electoral districts as possible, as a way of riding out the demographic decline that they anticipate for their community in future years and decades. (Comment: From this point of view, more and smaller electoral districts are better. Christian anxiety about demographic decline is widespread, even if the available data do not justify it -- see reftel. End comment.)

¶11. (C) Blanc said, for example, that there is very little difference between the two proposals recently under the commission's consideration, one dividing Lebanon into nine electoral districts, the other into 13. Christian pluralities would be able to elect about 56 of the 64 Christian-designated seats under either system. The current impasse is the result of Christian insistence on symbolic dominance, which the 13-district scheme offers and the nine-district scheme does not.

¶12. (C) An even greater concern, for the IFES experts, was the minimum threshold of votes that the national electoral reform commission is considering setting. According to Blanc, the commission has decided that, in the proposed proportional system, a list of parliamentary candidates must win at least 10 percent of the overall vote in order for any of its members to be elected.

¶13. (C) Ten percent is a relatively quite high threshold. It would create a high barrier to the entry of smaller, emerging parties (the ones most likely to cross traditional lines of confessional identity and clientelism) and cement the hold of the reigning large political blocs over Lebanese politics. Blanc said that a threshold of five percent would be much more reasonable. He noted that, in Iraq's recent elections, a threshold of only 0.36 percent managed to eliminate some 50 percent of the candidates.

INDEPENDENT ELECTORAL COMMISSION

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¶14. (C) Erben and Blanc applauded the national electoral reform commission's goal of creating an independent commission to oversee future Lebanese elections. At the same time, they worried that not enough thought has gone into the administrative and managerial support that such an independent commission would require. Blanc said that, based on conversations with national electoral reform commission members, he and his colleagues feared that the independent electoral commission lacked a precise mandate, as well as the fiscal and legal independence and administrative tools needed to carry that mandate out.

¶15. (C) As envisioned in the current draft law, the independent electoral commission will only "borrow" its staff from the government bureaucracy, mostly the ministries of Justice and Interior. It would also have insufficient administrative support, with no more than five full-time staffers. It would not have personnel to monitor elections, and its budget would be subject to manipulation by the GOL. This lack of a clear mandate, adequate resources, and organizational structure would cripple the independent electoral commission, according to the IFES experts.

¶16. (C) Thiel said the independent electoral commission would need a guaranteed annual budget. Otherwise, it can be turned off and shut down at any time, at the whim of the president, prime minister, or speaker of Parliament. Blanc noted that these were largely organizational shortcomings,

however, which he and his colleagues hoped to address in "Phase II" of the electoral law reform process (which begins after the national electoral reform commission submits a draft law to the prime minister).

¶17. (C) The IFES team emphasized that the independent electoral commission would potentially be the most important aspect of the new electoral law. To date, however, it has received little detailed attention from the law's drafters. Regardless of the other improvements in the electoral law, if the independent electoral commission fails in its mission to run transparent, open elections, the validity of any reforms would be called into question. The IFES experts noted that, as elections became more genuinely competitive, an independent electoral commission falls under ever greater scrutiny.

VOTER REGISTRATION

¶18. (C) In Lebanon's electoral system, voters register in their ancestral home or village, rather than their current place of residence. IFES consultant Ben Goldsmith said that this issue is a Pandora's box, which may burst open if the commission does not first address some of the pressures and inequalities in the current system. Currently, Goldsmith said, the Ministry of Interior maintains voter registration lists and maintains a strict cap on the number of individuals it permits to change their official residence every year.

¶19. (C) Goldsmith said that the current system has two major shortcomings. First, the current registration system, maintained by the Interior Ministry, is non-transparent. Responsibility for voter registration should be given to the proposed independent electoral commission, which would require permanent administrative support to manage voter lists.

¶20. (C) Second, the current system encourages clientelism. Voters often have to travel across Lebanon -- from where they actually live to where they are registered -- in order to vote. Candidates and parties will often provide transportation, food, and financial remuneration to make sure that voters get to the polling place -- and that, once there, they vote for the "right" list of candidates.

¶21. (C) Another factor to consider, Goldsmith said, is the impact of expatriate voting. If expatriate voters remain registered in their ancestral homes in Lebanon, Goldsmith estimated that they could determine the outcome of as many as 50 parliamentary seats in the next election. The national electoral reform commission has not yet taken into consideration the logistical requirements for running expatriate voting. Their current plan -- to run expatriate

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votes through Lebanese embassies and consulates -- is impractical, according to Goldsmith.

DISPUTE RESOLUTION AND THE WOMEN'S QUOTA

¶22. (C) Two final areas for consideration, according to the IFES experts, include the draft law's mechanism for resolving disputed elections and ensuring female representation in Parliament.

¶23. (C) Blanc noted that, currently under Lebanese law, disputed election results are reviewed by the Constitutional Court, which has itself been the subject of recent political battles and charges of partiality. While complaints over disputed election results have to be filed with the court within one month, there is no timeframe in which the court would be required to render a decision. In order to instill confidence in electoral results and avoid ongoing political battles, Blanc said that the Constitutional Court should be

required to resolve disputed elections within a fixed period of time.

¶24. (C) As for women's representation, the draft law has a provision requiring that 20 percent of the parliamentary candidates on each electoral list be women. There is no guaranteed minimum of actual seats in Parliament to be awarded to female candidates, however. Erben dismissed this provision as "a joke," and doubted that any female candidate would win a seat in Parliament as a result of it. He and his colleagues believed that only a law reserving a specific number of parliamentary seats for women over the next few elections would guarantee a minimum of female representation in Parliament. They admitted that squaring a female quota with existing confessional and districting constraints would be "really tricky."

COMMENT

¶25. (C) Though IFES has not seen the entire actual text of the draft law, their conversations with commission members and NGO partners have given them a fairly detailed picture of some of the law's major provisions. More importantly, they have the technical expertise to discuss the impact of the draft law's provisions at a level of detail which, to this point, has largely been unavailable for electoral commission members and involved civil society organizations.

¶26. (C) Comment, continued: Some of the provisions discussed in this meeting, especially the 10 percent threshold and the independent electoral commission, are of critical importance to any future electoral law. We believe that, even without having seen the final draft law, it is probably the right time to start developing a USG position on these issues. Further consultation with our civil society partners and electoral commission members can help in this regard. End comment.

FELTMAN